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Superior Court upholds Orinda's approval of memory care facility at 1 Wilder Road

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Judge Edward Weil of the Contra Costa Superior Court on Feb. 10 issued a 35-page judgment upholding the decision to the city of Orinda to approve a memory care facility to be constructed at 1 Wilder Road, a piece of property between Highway 24 and the Wilder housing development. The matter had been argued before the court on Feb. 2, at which time the judge took the matter under submission. In its order after hear, the court directed the city to prepare a judgment denying the petition for writ of mandate that was filed by Wilder Owners' Association (WOA). The court also granted petitioners' motion to augment the administrative record, which signals the intent of the WOA to proceed with a further appeal.

The court found against the WOA on all the points argued. The court found that Orinda's general plan and municipal code do not preclude private, for-profit ownership of land uses in districts zoned for public and semipublic land use. The court also found that the project satisfies the definition and requirements for a congregate care facility under Orinda's code. A particular objection of the WOA was the inclusion of small kitchens in each unit that will not be accessible to the resident, but only to staff or guests. The court noted that "The definition of congregate care facility only requires that the physical elements of the small individual dwelling units `allow for independent living,' not that the residents actually live independently or actually use the physical elements provided that allow for independent living in their units."

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